Supreme Court, U.S.
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No. 93-1713

In the Supreme Court of the United States

OCTOBER TERM, 1993

DAVID WAYFIELD,
PETITIONER,

v.

TOWN OF TISBURY AND MARJORIE CONVERY,
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

The respondents the Town of Tisbury and Marjorie Convery object to the Questions Presented in the petition, and do not believe that there are any questions to be addressed by this Court. The respondents' specific objections to the Questions Presented are detailed in the Reasons for Denying the Writ.

The respondents the Town of Tisbury and Marjorie Convery respectfully request that this Court deny the petition for writ of certiorari seeking review of the First Circuit's opinion in this case.

STATEMENT OF THE CASE

The respondents object to the Statement of the Case in the petition, and incorporate by reference the facts of the case as presented in the opinion of the United States Court of Appeals for the First Circuit, appended to the petition at A-3, and the opinion of the United States District Court for the District of Massachusetts, appended to the petition at A-16. In particular, the respondents contend that the petitioner's Statement of the Case is not a concise statement containing the facts material to the consideration of the questions presented, as required by Supreme Court Rule 14.1(g).

The respondents also object to the petitioner's characterization of the issues before this Court and the rambling and irrelevant recitation of the "background" of the case. The respondents likewise object to the amended statement of the facts as set forth in the Errata and Amendment to the Petition.

REASONS FOR DENYING THE WRIT

The petition should be denied because there are no special or important reasons for granting the petition, as defined in Supreme Court Rule 10. The decision of the First Circuit Court of Appeals, of which the petitioner seeks review, is not in conflict with any other United States Court of Appeals or with any state court of last resort, nor has any such conflict been alleged.

The First Circuit Court of Appeals also did not depart so far from the accepted and

usual course of judicial proceedings as to call for this Court to exercise its power of supervision. The First Circuit applied the correct standard for deciding a motion to dismiss under Fed. R. Civ. P. 12(b)(6), accepting the factual allegations in the complaint as true and construing the facts in the light most favorable to the plaintiff/petitioner. Having done so, the First Circuit determined that the complaint failed to show any facts which could entitle the plaintiff/petitioner to relief on all but one of his claims.

The First Circuit did reinstate the cause of action arising out of the petitioner's three-month suspension from the Vineyard Haven Public Library, finding that it was possible to infer from a liberal reading of the "conclusory allegations" and "circumstantial" facts that the petitioner

had been barred because of his political views.[1] The petitioner has now introduced new facts and allegations in his second Question Presented in an apparent attempt to recast the claim arising out of the library suspension as an "important question of federal law." The District Court and the First Circuit were not asked to address the issue stated in the second Question Presented, and therefore this Court should not do so.

Furthermore, neither Question Presented raises any important question of federal law that should be settled by this Court. The decisions of the District Court and the First Circuit were correct, turned upon the

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[1] While the respondents contend that the complaint did not allege sufficient facts to entitle the plaintiff to relief on the claim arising out of the library suspension, they accept the decision of the First Circuit as correct for the purposes of this Brief in Opposition.

particular facts as alleged in the complaint, and contrary to the petitioner's characterizations, will affect only the parties to this litigation.

Finally, the petition should be denied because the petitioner has failed to present with accuracy, brevity and clearness that which is essential to a ready and adequate understanding of the points requiring consideration.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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